

---

SENATE BILL 5813

---

State of Washington

65th Legislature

2017 Regular Session

By Senator Padden

Read first time 02/15/17. Referred to Committee on Law & Justice.

1 AN ACT Relating to crimes against minors; amending RCW 9A.40.100,  
2 9.68A.070, 9.68A.050, and 9.68A.060; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 9A.40.100 and 2014 c 188 s 1 are each amended to  
5 read as follows:

6 (1) A person is guilty of trafficking in the first degree when:

7 (a) Such person:

8 (i) Recruits, harbors, transports, transfers, provides, obtains,  
9 buys, purchases, or receives by any means another person knowing, or  
10 in reckless disregard of the fact, (A) that force, fraud, or coercion  
11 as defined in RCW 9A.36.070 will be used to cause the person to  
12 engage in:

13 (I) Forced labor;

14 (II) Involuntary servitude;

15 (III) A sexually explicit act; or

16 (IV) A commercial sex act, or (B) that the person has not  
17 attained the age of eighteen years and is caused to engage in a  
18 sexually explicit act or a commercial sex act; or

19 (ii) Benefits financially or by receiving anything of value from  
20 participation in a venture that has engaged in acts set forth in

21 (a)(i) of this subsection; and

1 (b) The acts or venture set forth in (a) of this subsection:

2 (i) Involve committing or attempting to commit kidnapping;

3 (ii) Involve a finding of sexual motivation under RCW 9.94A.835;

4 (iii) Involve the illegal harvesting or sale of human organs; or

5 (iv) Result in a death.

6 (2) Trafficking in the first degree is a class A felony.

7 (3)(a) A person is guilty of trafficking in the second degree  
8 when such person:

9 (i) Recruits, harbors, transports, transfers, provides, obtains,  
10 buys, purchases, or receives by any means another person knowing, or  
11 in reckless disregard of the fact, that force, fraud, or coercion as  
12 defined in RCW 9A.36.070 will be used to cause the person to engage  
13 in forced labor, involuntary servitude, a sexually explicit act, or a  
14 commercial sex act, or that the person has not attained the age of  
15 eighteen years and is caused to engage in a sexually explicit act or  
16 a commercial sex act; or

17 (ii) Benefits financially or by receiving anything of value from  
18 participation in a venture that has engaged in acts set forth in  
19 (a)(i) of this subsection.

20 (b) Trafficking in the second degree is a class A felony.

21 (4)(a) In any prosecution under this chapter in which the offense  
22 or degree of the offense depends on the victim's age, it is not a  
23 defense that the perpetrator did not know the victim's age, or that  
24 the perpetrator believed the victim to be older, as the case may be.

25 (b) A person who is either convicted or given a deferred sentence  
26 or a deferred prosecution or who has entered into a statutory or  
27 nonstatutory diversion agreement as a result of an arrest for a  
28 violation of a trafficking crime shall be assessed a ten thousand  
29 dollar fee.

30 ~~((b))~~ (c) The court shall not reduce, waive, or suspend payment  
31 of all or part of the fee assessed in this section unless it finds,  
32 on the record, that the offender does not have the ability to pay the  
33 fee in which case it may reduce the fee by an amount up to two-thirds  
34 of the maximum allowable fee.

35 ~~((e))~~ (d) Fees assessed under this section shall be collected  
36 by the clerk of the court and remitted to the treasurer of the county  
37 where the offense occurred for deposit in the county general fund,  
38 except in cases in which the offense occurred in a city or town that  
39 provides for its own law enforcement, in which case these amounts  
40 shall be remitted to the treasurer of the city or town for deposit in

1 the general fund of the city or town. Revenue from the fees must be  
2 used for local efforts to reduce the commercial sale of sex  
3 including, but not limited to, increasing enforcement of commercial  
4 sex laws.

5 (i) At least fifty percent of the revenue from fees imposed under  
6 this section must be spent on prevention, including education  
7 programs for offenders, such as john school, and rehabilitative  
8 services, such as mental health and substance abuse counseling,  
9 parenting skills, training, housing relief, education, vocational  
10 training, drop-in centers, and employment counseling.

11 (ii) Revenues from these fees are not subject to the distribution  
12 requirements under RCW 3.50.100, 3.62.020, 3.62.040, 10.82.070, or  
13 35.20.220.

14 (5) If the victim of any offense identified in this section is a  
15 minor, force, fraud, or coercion are not necessary elements of an  
16 offense and consent to the sexually explicit act or commercial sex  
17 act does not constitute a defense.

18 (6) For purposes of this section:

19 (a) "Commercial sex act" means any act of sexual contact or  
20 sexual intercourse, both as defined in chapter 9A.44 RCW, for which  
21 something of value is given or received by any person; and

22 (b) "Sexually explicit act" means a public, private, or live  
23 photographed, recorded, or videotaped act or show intended to arouse  
24 or satisfy the sexual desires or appeal to the prurient interests of  
25 patrons for which something of value is given or received.

26 **Sec. 2.** RCW 9.68A.070 and 2010 c 227 s 6 are each amended to  
27 read as follows:

28 (1)(a) A person commits the crime of possession of depictions of  
29 a minor engaged in sexually explicit conduct in the first degree when  
30 he or she knowingly possesses a visual or printed matter depicting a  
31 minor engaged in sexually explicit conduct as defined in RCW  
32 9.68A.011(4) (a) through (e).

33 (b) Possession of depictions of a minor engaged in sexually  
34 explicit conduct in the first degree is a class B felony punishable  
35 under chapter 9A.20 RCW.

36 (c) For the purposes of determining the unit of prosecution under  
37 this subsection, each depiction or image of visual or printed matter  
38 constitutes a separate offense.

1 (2)(a) A person commits the crime of possession of depictions of  
2 a minor engaged in sexually explicit conduct in the second degree  
3 when he or she knowingly possesses any visual or printed matter  
4 depicting a minor engaged in sexually explicit conduct as defined in  
5 RCW 9.68A.011(4) (f) or (g).

6 (b) Possession of depictions of a minor engaged in sexually  
7 explicit conduct in the second degree is a class ((C)) B felony  
8 punishable under chapter 9A.20 RCW.

9 (c) For the purposes of determining the unit of prosecution under  
10 this subsection, each incident of possession of one or more  
11 depictions or images of visual or printed matter constitutes a  
12 separate offense.

13 **Sec. 3.** RCW 9.68A.050 and 2010 c 227 s 4 are each amended to  
14 read as follows:

15 (1)(a) A person commits the crime of dealing in depictions of a  
16 minor engaged in sexually explicit conduct in the first degree when  
17 he or she:

18 (i) Knowingly develops, duplicates, publishes, prints,  
19 disseminates, exchanges, finances, attempts to finance, or sells a  
20 visual or printed matter that depicts a minor engaged in an act of  
21 sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through  
22 (e); or

23 (ii) Possesses with intent to develop, duplicate, publish, print,  
24 disseminate, exchange, or sell any visual or printed matter that  
25 depicts a minor engaged in an act of sexually explicit conduct as  
26 defined in RCW 9.68A.011(4) (a) through (e).

27 (b) Dealing in depictions of a minor engaged in sexually explicit  
28 conduct in the first degree is a class B felony punishable under  
29 chapter 9A.20 RCW.

30 (c) For the purposes of determining the unit of prosecution under  
31 this subsection, each depiction or image of visual or printed matter  
32 constitutes a separate offense.

33 (2)(a) A person commits the crime of dealing in depictions of a  
34 minor engaged in sexually explicit conduct in the second degree when  
35 he or she:

36 (i) Knowingly develops, duplicates, publishes, prints,  
37 disseminates, exchanges, finances, attempts to finance, or sells any  
38 visual or printed matter that depicts a minor engaged in an act of

1 sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g);  
2 or

3 (ii) Possesses with intent to develop, duplicate, publish, print,  
4 disseminate, exchange, or sell any visual or printed matter that  
5 depicts a minor engaged in an act of sexually explicit conduct as  
6 defined in RCW 9.68A.011(4) (f) or (g).

7 (b) Dealing in depictions of a minor engaged in sexually explicit  
8 conduct in the second degree is a class ((C)) B felony punishable  
9 under chapter 9A.20 RCW.

10 (c) For the purposes of determining the unit of prosecution under  
11 this subsection, each incident of dealing in one or more depictions  
12 or images of visual or printed matter constitutes a separate offense.

13 **Sec. 4.** RCW 9.68A.060 and 2010 c 227 s 5 are each amended to  
14 read as follows:

15 (1)(a) A person commits the crime of sending or bringing into the  
16 state depictions of a minor engaged in sexually explicit conduct in  
17 the first degree when he or she knowingly sends or causes to be sent,  
18 or brings or causes to be brought, into this state for sale or  
19 distribution, a visual or printed matter that depicts a minor engaged  
20 in sexually explicit conduct as defined in RCW 9.68A.011(4) (a)  
21 through (e).

22 (b) Sending or bringing into the state depictions of a minor  
23 engaged in sexually explicit conduct in the first degree is a class B  
24 felony punishable under chapter 9A.20 RCW.

25 (c) For the purposes of determining the unit of prosecution under  
26 this subsection, each depiction or image of visual or printed matter  
27 constitutes a separate offense.

28 (2)(a) A person commits the crime of sending or bringing into the  
29 state depictions of a minor engaged in sexually explicit conduct in  
30 the second degree when he or she knowingly sends or causes to be  
31 sent, or brings or causes to be brought, into this state for sale or  
32 distribution, any visual or printed matter that depicts a minor  
33 engaged in sexually explicit conduct as defined in RCW 9.68A.011(4)  
34 (f) or (g).

35 (b) Sending or bringing into the state depictions of a minor  
36 engaged in sexually explicit conduct in the second degree is a class  
37 ((C)) B felony punishable under chapter 9A.20 RCW.

38 (c) For the purposes of determining the unit of prosecution under  
39 this subsection, each incident of sending or bringing into the state

1 one or more depictions or images of visual or printed matter  
2 constitutes a separate offense.

--- END ---